



Human Services Connection

June 2005

A Publication of the North Dakota Department of Human Services

Director's Message



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Welcome to this, the inaugural issue, of Human Services Connection. This bi-monthly newsletter

replaces the Kiosk and is intended to keep you apprised of human services issues.

Now that the 2005 Legislative Session has ended, it is time to refocus on finishing the work left to the department and our partners this biennium, to begin planning to manage our programs within our approved budget, and to comply with new legislation passed this session.

Legislators funded many of the Governor's priorities. The department's 2005-2007 budget totals \$1.68 billion and includes an increase of \$80 million in state general or equivalent funds. Almost half of this increase is due to the reduction in federal funding for Medicaid services (known as FMAP). While not all areas of the budget are fully funded, it is a good budget. I have confidence that the challenges that emerge can be addressed together.

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2005-07 DHS Budget Highlights (HB 1012)

- Gives a 2.65% inflationary increase per year for providers of services under the various grant (assistance) programs. Inflationary increases have not been granted since State Fiscal Year 2002 except for nursing homes and basic care facilities where statute or administrative rules established increases.

Administration:

- Devotes \$29.2 million toward replacement of the state's outdated Medicaid Management Information System (MMIS), which handles payments to providers and provides data to manage the program. Funding is primarily from Medicaid with a matching ratio of 90% federal to 10% state general fund equivalent dollars.

Child Support:

- Continued current funding level for the Lake Region Child Support Enforcement Unit (\$215,000 general funds and applicable federal match).

Children & Family Services:

- Increases the budget to address rising foster care caseloads, which are related to the growing methamphetamine problem.
- Increases funding for treatment services at Residential Child Care Facilities (RCCF). Facility rates will increase from \$11.51/day to \$15/day (maximum or current costs - whichever is lower).

Disability Services:

- Funds Developmental Disability (DD) provider wage increases of 15 cents per hour in year one and 20 cents per hour in year two at a cost of \$4.2 million (\$1.5 million in general and equivalent funds).
 - Adds \$570,000 (\$200,000 in general funds) to increase payment rates for facilities serving children with extensive medical needs.
 - Directs DHS to plan with input from DD providers for transferring appropriate individuals from the Developmental Center to community placement and to begin the transfers during the biennium and provides \$50,000 in general funds for transitions. Legislators trimmed \$750,000 (\$250,000 in general funds) from the center's proposed operating budget. This will present a challenge because the center will also be affected by the reduction in federal Medicaid match.
 - Funds self-directed supports option (awaiting waiver approval from the Centers for Medicare and Medicaid Services).
- (Continued on page 2)**

Human Services Legislation Highlights

In addition to HB 1012, House Bills 1069, 1181, 1460, 1465, and Senate Bills 2028, 2341, 2373, and 2395 had fiscal impacts.

ADMINISTRATIVE

HB 1069 – Allows PERS members retiring at or after their full retirement age to elect a Partial Lump Sum Option and amends the way the **employee retirement contribution** is paid into the system.

HB 1286 – Allows public entities to charge up to 25 cents per impression of a paper copy of **public records**, and they can impose a fee up to \$25 per hour per request, excluding the initial hour, for 1) locating records if locating the records requires more than one hour and for 2) excising confidential or closed material under 44-04-18.10.

HB 1289 – Provides that **proceedings to commit a sexually dangerous individual** are open to the public, and a treating facility or mental health professional shall, if requested, disclose individually identifiable health information to a court, the State Hospital, state's attorney, retained counsel, or other mental health professional, including an expert examiner, and the disclosure is a disclosure for treatment, which allows

HB 1012 – DHS Appropriation Bill (*Continued*)

Disability Services:

- Reduced funding from the agency's proposed budget for DD grants by \$1.4 million (\$500,000 in general funds) and for supported living services by \$100,000 in general funds.

Economic Assistance:

- Funds the Indian County Allocation at 100% of costs, which exceeds the average mills statewide. The previous reimbursement level was 90%. This is a \$500,000 general fund increase over the current biennium.
- Provides \$1.2 million (\$600,000 in state funds) to comply with proposed federal regulations known as Payment Error Rate Management (PERM), and requires DHS to establish a quality review process to verify the accuracy of Medicaid eligibility determinations made by the counties and to review actual Medicaid payments for accuracy.

Long Term Care:

- Removes from statute the formula used to set different inflationary adjustments for nursing homes.
- Increases home and community-based services funding by 20.8% based upon caseload projections provided by the department.

Medical Services:

- Increased utilization, particularly in inpatient hospitalization, outpatient hospitalization, and physician services remain challenging. The decreasing FMAP (federal matching rate) requires additional state funds to sustain services. Increases in North Dakota's per capita income levels led to the reduced FMAP.
- Added \$2 million (\$428,000 in state funds) to the proposed budget for the Healthy Steps Children's Health Insurance Program to accommodate additional eligible children. A system change is expected to increase program enrollment.

Mental Health Services & Field Services:

- Funds compulsive gambling treatment and prevention at \$400,000 using lottery proceeds.
- Approved a \$3 million increase for secured services for sex offenders committed to the State Hospital enhancing capacity by 10 beds.
- Reduced the proposed budget for the human service centers (HSC) by \$400,000 in operating funds, which is in addition to the \$460,000 that is the HSCs' share of the DHS salary under funding.

such confidential information to be given out without violation of laws like HIPAA.

HB 1337 – Requires agencies to send a copy of the agency's full notice of **rulemaking** and the
(Continued)

proposed rule to each legislator who sponsored legislation that is being implemented by the administrative rule.

HB 1421 – Provides that **nonemergency administrative rules** may only become effective on four dates per year. It also provides that a non-emergency rule does not become effective until the Administrative Rules Committee has reviewed it and no longer has authority to consider the rule. Now, only 20 days have to elapse between the newspaper notice and the public hearing on a rule. The law also shortens the time period in which the public can provide written comments after a public hearing.

SB 2118 – Includes safeguards to ensure DHS **confidential records** are maintained in compliance with HIPAA and also changes the penalty for the unlawful disclosure of confidential information under section 50-06-15 from a class A misdemeanor to a class C felony.

AGING SERVICES

SB 2028 - Allows DHS to create and coordinate **guardianship services** for vulnerable adults who are ineligible for developmental disabilities case management services and provides a \$40,000 appropriation.

SB 2029 - Relates to appointment of a **successor guardian**.

SB 2030 – Relates to the filing of annual reports to the court by **guardians and conservators**.

SB 2248 – Reduces fees for statewide **background checks** to \$15 and institutes a \$15 fee for processing fingerprint cards for federal background checks. Background checks are required for those who provide services such as adult family foster care.

SB 2267 – Provides a continuing appropriation from sales tax revenues to the **Senior Mill Levy Match Program**. Administrative responsibilities were moved from DHS Aging Services to the State Treasurer's Office. Because of the shift in funding source, the available funds are expected to be \$2 million (\$300,000 more than the department's budget proposal).

SB 2343 – Combines the laws and sample forms regarding **living wills and durable power of attorney for health care** into one law.

SCR 4030 – Proposes a **study of long-term care services** in N.D. with an emphasis on consumer choice, patient safety, quality of care, possible duplication of services, and state assistance.

CHILDREN AND FAMILY SERVICES

HB 1110 – Extends the **moratorium** on the development of **resi-**

dential treatment beds in N.D. and requires DHS to issue a request for proposals (RFP) for the provision of residential services for adolescent sexual offenders. Currently, 24 youth are in out-of-state placement for treatment due to sexual offenses.

SB 2149 – Allows DHS to develop a process that enables counties to petition DHS to be relieved of the responsibility of providing child welfare services. It also allows DHS to release a county social service board of this duty and also provides a definition of "**authorized agent**" to conduct work on behalf of DHS.

SB 2304 – Defines "drop in care" and includes **drop in care** as a type of early childhood service required to be regulated.

SB 2383 – Defines a "**children's advocacy center**" and provides a \$100,000 appropriation to the Attorney General's Office.

CHILD SUPPORT ENFORCEMENT

HB 1121 – Replaces current state law regarding **paternity establishment** and **voluntary paternity acknowledgments** with the 2002 Uniform Parentage Act.

HB 1162 – Revises the procedures for **suspending licenses and registrations** for nonpayment of child support.

HB 1172 – Changes state law allowing DHS and the regional child support enforcement units to **negotiate payment plans** with noncustodial parents or to take **enforcement actions** when the amount of past-due support is still fairly small and less difficult to pay in full. Judgment interest on past-due support can be suspended or waived if the noncustodial parent is cooperating. It also requires that collections of current support by **private collection agencies** be processed through DHS and received by the families.

SB 2288 – Allows a noncustodial parent to avoid having an **income withholding order** issued to the parent's employer by authorizing automatic withdrawals from the parent's bank account or credit card.

SB 2301 – Increases the amount of **state support for tribal counties** (see *Economic Assistance section*) and creates a task force to study the structure of the child support enforcement program. Requires DHS to distribute **federal incentive funds** to the counties under a formula that promotes performance and consistency in child support enforcement activities throughout the state. It also allows DHS to require the centralizing or specializing of any function that is currently performed at the county level if DHS believes the function may be performed more

effectively, efficiently, or consistently.

DISABILITY SERVICES

HB 1146 – Eliminates references to a **fee-for-service payment system** for DD providers (enacted in 2003 with SB 2086).

ECONOMIC ASSISTANCE

SB 2301 – Increases from 90% to 100% the **reimbursement for administering economic assistance programs** to counties with more than 20% of their economic assistance program caseload living on a federally recognized Indian reservation or property tax-exempt tribal trust lands. (See *SB 2301 in Child Support Enforcement section*.)

SB 2409 – Appropriates \$500,000 for DHS to establish and implement a procedure to facilitate funding to nongovernmental entities that provide **alternatives to abortion services** that are outcome-based with positive results.

MEDICAID AND MEDICAL SERVICES

HB 1147 – Defines an **assisted living facility** for licensing purposes by requiring each living unit to include a sleeping area, a lockable entry door, and a private bathroom. The facility must consist of five or more living units and no more than two people may occupy a living unit. It contains a grandfather

clause for facilities that currently possess a valid license.

HB 1148 – Makes the **personal care option** permanent for individuals eligible for the Medicaid program. It also requires DHS to submit a **waiver** that would permit disabled and elderly individuals to direct their own care.

HB 1181 – Increases the **funeral expense allowance** from \$3,000 to \$5,000 for each eligible Medicaid recipient. This is expected to cost the Medicaid program about \$1.3 million of which about \$400,000 is general funds.

HB 1190 – Maintains the **moratorium on construction of new basic care beds**, but also provides exceptions if basic care is not readily available within an area or if existing beds within a 50-mile radius have a high occupancy rate. Allows facilities to transfer beds to another entity and requires the beds to be licensed within 48 months.

HB 1191 – Maintains the **moratorium on construction of new nursing home beds**. It permits the conversion of nursing facility beds to basic care beds if the conversion occurs before August 1, 2005. This will permit a provider to construct beds in Fargo where there are no current facilities serving low-income residents. Beds may be transferred to another entity if they are licensed within 48 months.

HB 1204 – Removes language regarding the government nursing facility funding pool that was used to obtain **Intergovernmental Transfer (IGT) Funds** from two government owned facilities. The federal government no longer permits this funding process. It also directs DHS to pursue IGT funding in the future if permitted by the federal government and if it would be beneficial.

HB 1206 – Establishes an **appeal process for providers** who do not agree with the payment decision made by Medicaid staff. If a provider appeals, an individual who was not involved in the original decision must complete the review process. If the provider does not prevail, the provider can appeal directly to the district court.

HB 1217 – Permits individuals who purchase **long term care insurance** to protect part or all of their assets if they need long term care services after the insurance ends. Implementation is contingent upon Congressional action. Currently only four states can use this process.

HB 1248 – Clarifies when **annuities** can be used by a non-institutionalized spouse while still maintaining Medicaid eligibility for a spouse in a nursing home. Gives DHS access to any remaining funds in the annuity if both spouses die

before the annuity funds are exhausted.

HB 1252 – Removes the statutory reference regarding **nursing home inflationary increases**, creating a "level playing field" with other provider groups; requires DHS to rebase **nursing facility payment limits** every four years and changes the way limits are established.

HB 1281 – Allows **long term care facilities** to collect financial information from applicants and permits facilities to deny admission if a viable payment source is not evident. It also clarifies eligibility issues for nursing facility residents when assets are transferred for less than fair market value.

HB 1445 – Authorizes the transfer of \$16.9 million from the **health care trust fund** to the general fund.

HB 1459 – Establishes a **prescription drug monitoring program** if federal funds become available to implement it. It also establishes a **disease management program** for Medicaid recipients, requires DHS to report to the Legislative Council about Medicaid program operations, and recommends a **study of the Medicaid reimbursement system**.

HB 1460 – Provides \$100,000 (\$50,000 in state general funds) to engage an **actuarial firm** to analyze the number of Medicaid recipients and the associated costs to

provide services to them including comparisons to surrounding states and projections of usage and cost trends for the next five years. DHS must report on this to the Legislative Council.

HB 1465 – Provides \$50,000 in state general funds to hire a consultant to help implement the **Medicare Part D Prescription Drug Program**. It also establishes parameters for payment of prescriptions for those individuals who qualify for both Medicaid and Medicare.

HB 1470 – Clarifies the makeup of the **Drug Utilization Review (DUR) Board** and prohibits DHS from **prior authorizing** any antipsychotic, antidepressant, or other medications used to treat mental illnesses, or medications prescribed for HIV, AIDS or cancer.

SB 2159 – Permits DHS to implement **emergency rule making** to make changes related to the movement of the Healthy Steps Children's Health Insurance Program (SCHIP) to the **VISION** eligibility determination system in order to better align Medicaid and SCHIP eligibility determination.

SB 2163 – Permits students to self-administer medications for **asthma** and anaphylaxis.

SB 2185 – Eliminates the sunset clause on the Medicaid **Workers With Disabilities coverage**

group and clarifies the allowance of an additional \$10,000 in assets for individuals in the coverage group.

SB 2190 – Permits canceling and repurchasing of **annuities** under some circumstances.

SB 2395 – Requires DHS to provide up to \$150,000 in payments for services related to **Russell-Silver Syndrome** with no more than \$50,000 to be paid per child per biennium, and calls for a possible study on the needs of children with extraordinary health care concerns. It requires DHS to submit a **Medicaid waiver** to provide in-home services to children with extraordinary health care needs and to report to Legislative Council.

SB 2410 – Permits DHS to determine **Medicaid program eligibility**. This law was necessary because the VISION computer system now can handle both SCHIP and Medicaid eligibility.

MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES

HB 1259 – Removes the continuing appropriation from the lottery for the **compulsive gambling and treatment fund** and limits expenditures to legislated appropriations.

HB 1473 – Provides for the development of a **commission to study alternatives to incarceration**. The

commission, which includes the department's executive director, shall study sentencing alternatives, mandatory sentencing, treatment options, the expanded use of problem-solving courts, home monitoring, and other related issues. The commission is in effect through June 30, 2009.

SB 2341 – Coordinates with a federal Substance Abuse & Mental Health Services Administration (SAMHSA) grant that DHS hopes to receive in order to establish a **pilot project to provide treatment services for first time felony drug offenders** in Walsh and Pembina counties. Funding is contingent upon receipt of the grant. It includes a \$515,855 general fund appropriation for the Department of Corrections and \$448,471 in special funds derived from federal funds for DHS.

SB 2373 – Directs DHS to issue a request for proposals to provide a **substance abuse treatment program for people addicted to meth or other controlled substances**. The program will consist of up to 20 beds at the State Hospital or a private facility. Funding includes \$500,000 with the possibility of an additional \$800,000 from other sources. Funds may not be used for construction or renovation projects.

HCR 3047 – Studies sentencing alternatives including expanding

rehabilitation over incarceration, the provision of treatment options, and adequate funding of treatment programs.

Good News

Child & Family Services Review

To measure performance and meet the goals of the federal Child and Family Services Review, North Dakota conducts annual reviews of child welfare services in each administrative region.

To date this fiscal year, six regional reviews have produced an overall rating of 99%. The Grand Forks and Bismarck regions recently received 100% ratings on their case reviews!

Counties, regional supervisors, the Division of Juvenile Services, and others involved in child welfare services are to be commended!

On the Web

Your Civil Rights

(Spanish version)

<http://www.state.nd.us/humanservices/misc/docs/su-s-derechos-civiles.pdf>

Medicaid System Replacement Project

<http://www.state.nd.us/humanservices/info/mmism.html>

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